2. The Southern Border's Infrastructure Is Inadequate At Ports-Of-Entry

Infrastructure at Southern Border ports-of-entry cannot effectively handle hundreds of millions of inspections annually. In addition, the Southern Border's infrastructure cannot support the implementation of new border security programs without harming the economies of border communities.

There is a need to balance the competing tension between screening people and vehicles for terrorist weapons, contraband, smuggled immigrants and other prohibited items with the need to ensure an efficient flow of commerce. Substantial investment in border infrastructure is needed to ensure national security while sustaining economic prosperity caused by increased cross-border trade over the last ten years.

Southern Land Border Ports-of-Entry: Congestion Impairs Security and Inhibits Commerce

There are 309 official ports-of-entry in the United States including land, airports and seaports.[31] Of these, 166 are land ports-of-entry, 43 of which are located on the Southern Border.[32] These Southern Border ports are equipped with 86 pedestrian lanes, 216 passenger vehicle lanes and 70 cargo lanes.[33] These ports-of-entry are generally large facilities with a high volume of pedestrian, vehicular, and commercial traffic.

Truck traffic from Mexico at Laredo's "World Trade Bridge."

According to Bureau of Transportation statistics, in 1994, there were 2.7 million truck crossings into the United States through the 24 ports-of-entry open to commercial traffic on the Southern Border.[34] In 2003, this traffic increased to 4.2 million crossings.[35] In 1996, there were more than 286,000 incoming containers being shipped by rail.[36] In 2003, the number of rail containers more than doubled, increasing to over 607,000.[37] In 1994, there were 66.4 million

[31] *Op. cit.,* DMIA Task Force Second Report, p.2.
[32] DHS, *Data Management Improvement Act (DMIA) Task Force – First Annual Report to Congress*, (Washington, D.C., December 2002), p.14.
[33] DHS, Customs and Border Protection briefing to the House Select Committee on Homeland Security, June 2, 2004.
[34] *Op. cit*., US-Mexico Border Crossing Data, Table 1.
[35] *Ibid*.
[36] *Ibid*, Tables 5-6.
[37] *Ibid*.

personal vehicles crossing into the U.S. from Mexico through Southern Border ports-of-entry.[38] These vehicles carried a total of 169 million passengers.[39] In 2003, the number of personal vehicles rose to 88.1 million, carrying 193.7 million passengers.[40] During this same timeframe, yearly pedestrian crossing rose from 34.9 million to 48.7 million.[41]

Commercial trade through land ports-of-entry has increased from $88 billion in 1994 to $201 billion in 2001, when the North American Free Trade Agreement (NAFTA) went into effect.[42] Mexico is now the United States' second largest trading partner, with total merchandise trade at $220.3 billion in 2003.[43]

Pedestrian Lanes in El Paso, Texas.

With the increase in pedestrians, commercial, and passenger vehicles, delays at Southern Border ports-of-entry have become unsatisfactory. For example, at the San Ysidro port-of-entry, it often takes more than two hours to get through the inspection process.[44] Crossing times at smaller ports-of-entry, such as Nogales, can average from 20-40 minutes, with longer wait times during morning and afternoon commutes.[45] Factors contributing to border congestion include

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[38] *Ibid*, Table 8.
[39] *Ibid*, Table 9.
[40] *Ibid*, Tables 8-9.
[41] *Ibid*, Table 12.
[42] *Op. cit.,* DMIA Task Force Second Report, p.15-16. The Commissioner of the Texas Department of Transportation testified in 2003 that NAFTA-related truck traffic comprises 16.5% of all truck traffic on Texas highways; and that more than half of the total trucks passing through Texas land border ports had origins or destinations outside Texas. The Commissioner further testified that "NAFTA trade is hampered by choke points at the border… For example, border infrastructure is often located in congested downtown areas, complicating commercial traffic flows…. Additionally, location in a fully developed area limits the possibilities for needed expansion." United States Senate, Committee on Environment and Public Works, *Statement of Commissioner John W. Johnson ,Texas Department of Transportation,* August 14, 2003.
[43] *Op. cit*., CRS Report RL32399, p.3.
[44] U.S. House, Select Committee on Homeland Security, *Hearings before the Subcommittee on Infrastructure and Border Security,* Testimony of Randel K. Johnson, Vice President for Labor, Immigration & Employee Benefits, U.S. Chamber of Commerce, June 15, 2004.
[45] *Ibid*.

inadequate roads, the layouts of inspection plazas, space limitations, the number of inspection booths and lanes and staffing.[46] Compounding these factors are the high volumes of travelers and cargo shipments moving through the ports as well as the inspection process required by law and the heightened security concerns since 9/11.

Primary vehicle inspection booths in El Paso, Texas.

This congestion has an impact on both security and commerce. It is estimated that given the current infrastructure, individual passenger vehicles inspections cannot take longer than 30 seconds in order to adequately facilitate traffic flows at most land border ports-of-entry.[47] It has been reported that if the average inspection were to increase by only nine seconds, the peak wait time at a typical port-of-entry could increase by more than eleven hours.[48]

Accordingly, for 98% of international travelers inspected, inspectors at ports-of-entry generally take less than one minute to ascertain whether the traveler is a legitimate traveler, a

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[46] *Op. cit*., DMIA Second Annual Report at p. 34. See also, GAO, *U.S.-Mexico Border: Better Planning, Coordination Needed to Handle Growing Commercial Traffic,* GAO/NSIAD-00-25, (Washington, D.C. March 2000), p. 5, which lists among the factors contributing to border congestion: lack of land to expand port of entry operations; inadequate roads leading to some ports-of-entries; and poor port-of-entry planning among U.S. agencies.

[47] *Op. cit.* ,DMIA Task Force First Annual Report, p. 49.

[48] GAO, *Department of Homeland Security's US-VISIT Program*, (Washington, D.C., October 23, 2003), p.22. This estimate related to an increase in inspections time and peak times at the Blaine Peace Arch in Washington State.

smuggler, an immigrant not qualified to enter the United States, or a potential terrorist.[49] In this time, an inspector must try to determine a traveler's citizenship and intent, query a database for a background check, conduct a visual inspection of the vehicle and belongings, and form an opinion as to whether the traveler should be sent to secondary inspection or allowed into the United States – a daunting task further exacerbated by the lack of personnel, technology, infrastructure, and adequate intelligence.

More than one port director described the pressure they were under to keep the back-log under control and to move people as quickly as possible across the border. None of the port managers would admit that this in any way affected security, but all admitted they were under constant pressure to keep the lines moving and were required to notify officials in Washington, D.C. in writing with an explanation if delays exceeded an hour.

Port managers told the staff that if they started to experience delays they would assign more inspectors and open more lanes for additional vehicles and passengers. However, this is not a realistic alternative in many cases since there are no "additional" lanes due to infrastructure limitations or, as will be discussed in the subsequent section, there are no additional staff to open new lanes. As a result, border inspectors told us they were encouraged to "flush" the traffic, i.e., shorten the waiting time by simply waving the traffic through the border.

Congestion at ports-of-entry has potential to create unreasonable delays, crippling trade with Mexico.

Likewise, border congestion has the potential to cripple trade with Mexico by causing unreasonable delays for commercial shipments, for Mexican citizens with work visas, and for

[49] GAO, Letter to U.S. Customs and Border Protection Commissioner Robert C. Bonner, *Land Border Ports of Entry*, GAO-03-1084R, (Washington, D.C., August 18, 2003), p. 3.

Mexicans who shop at U.S. stores. It has been estimated that a 1% permanent decline in cross-border commerce and trade will result in a loss of $76 million in sales, a loss of 1,549 jobs, a loss of $531,000 in sales tax rebates, and $726,000 in bridge revenues.[50] This assessment estimates the impact only for the Brownsville, McAllen, Laredo, and El Paso metropolitan areas, not the entire United States. These numbers underscore the importance of striking a balance between securing the borders against terrorists and criminals and in facilitating the flow of commerce and legitimate travelers through the nation's ports-of-entry.

The Infrastructure at Ports-of-Entry Is Inadequate To the Challenge

Port-of-entry infrastructure has not kept pace with the threat of terrorism, criminal activity or the flow of commerce. Many of the ports are old:

- 1 port-of-entry was constructed prior to 1900;
- 31 ports-of-entry were constructed between 1900 and 1940;
- 81 ports-of-entry were constructed between 1940 and 1970; and
- 45 ports-of-entry were constructed between 1970 and present.[51]

Infrastructure problems have been identified for years by a number of agencies that have studied the border. In 2003, the Data Management Improvement Act (DMIA) Task Force reported that more than 70% of the 166 land ports-of-entry have inadequate infrastructure:

- 64 ports have less than 25% of required space;
- 40 ports have between 25% and 50% of required space; and
- 13 ports have between 50% and 75% of required space. [52]

Likewise, the U.S. Government Accountability Office (GAO) visited eleven Southern Border ports-of-entry commercial vehicle inspection areas and assessed whether or not they were deficient in existing infrastructure and expansion space.[53] The GAO found that five had "limited room to expand," four had a "lack of docking space," five had "inadequate area to park trucks," four had "limited room to deploy new technology," eight had "poor port of entry road connections," and five had "inadequate exits."[54] Even the DHS has acknowledged some of these problems and admitted that 62 of their ports have inadequate space.[55]

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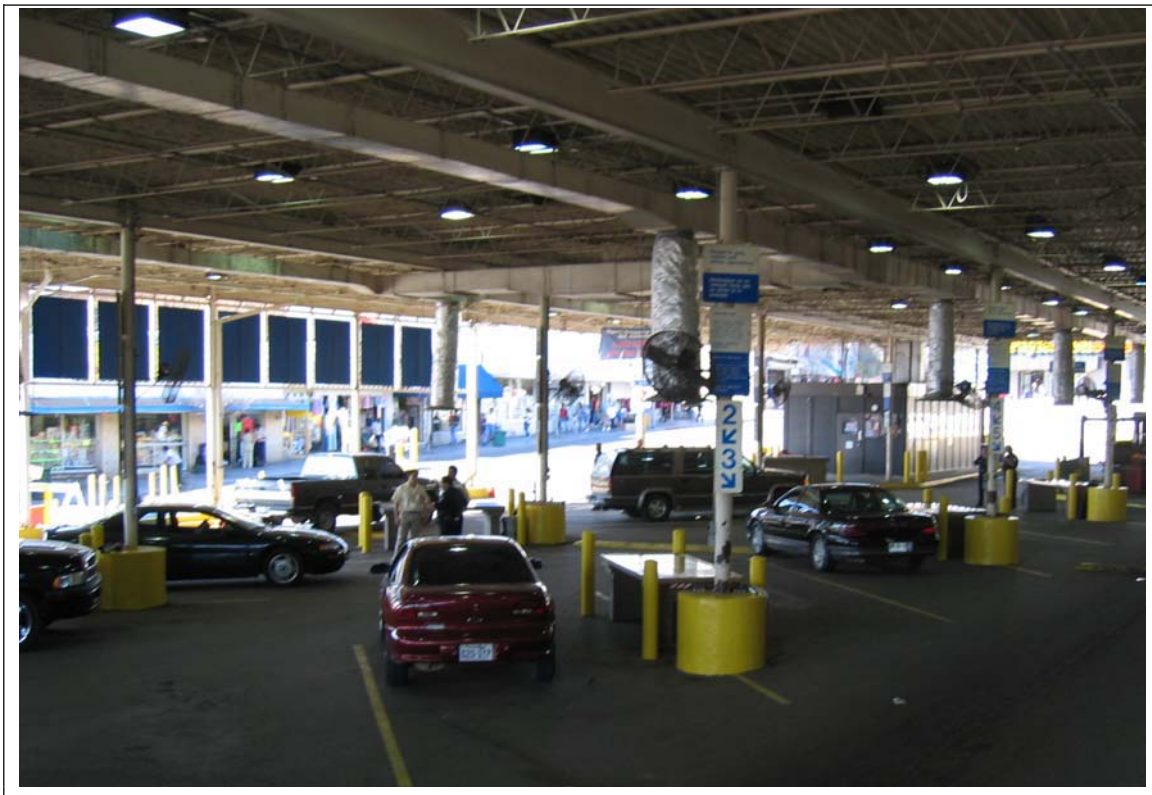
[50] Michael Patrick, *US VISIT: A Preliminary Impact Assessment on the Border and Texas Economies*, Texas Center for Border Economic and Enterprise Development, (Laredo, TX: Texas A&M University, April 2004), p. 3.
[51] DHS, *US-VISIT Industry Day Briefing*, July 8, 2003, slide 22, available from http://www.dhs.gov/interweb/assetlibrary/USVISIT_IndustryConfBrief.pdf.
[52] *Op. cit*., DMIA Task Force Second Report, p.33. The report notes that since the creation of the Department of Homeland Security, the U.S. Customs and Border Protection agency stated that there are no changes or updates to these statistics since 2001.
[53] GAO, *U.S.-Mexico Border: Better Planning, Coordination Needed to Handle Growing Commercial Traffic*, GAO/NSIAD-00-25, (Washington, D.C., March 2000), p.20.
[54] *Ibid*.
[55] *Op. cit.,* US-VISIT Industry Day Briefing materials.

Complicating the infrastructure problem is that many Southern Border ports-of-entry are landlocked by other development, and thus there is little or no room for expansion. For example, the "Bridge of the Americas" in El Paso is landlocked between a national park, an interstate, and Mexico. The "Gateways To Americas" Bridge in Laredo is located in Downtown Laredo and is surrounded by privately owned land and buildings. Being landlocked not only restricts port expansion, but also restricts improvements to existing infrastructure.

Another concern caused by the existing infrastructure on the Southern Border is the phenomena of "spotters." Spotters assist smugglers by watching port operations to determine exploitable vulnerabilities. For instance, at the "Gateways to Americas Bridge," the spotters are able to observe port operations from public places, such as adjacent sidewalks or inside adjacent buildings. The port can neither relocate the public nor erect barriers that would screen the inspection process. Spotters were cited as a concern at nearly every facility toured on the Southern Border.



Ports-of-entry in downtown areas often have no expansion room. Spotters can easily observe port operations from public areas.

Planned improvements such as the installation of radiation portal monitors are also limited due to space constrictions. For example, at the Otay Mesa port-of-entry, radiation portal monitors are planned to be installed immediately after commercial vehicles pass through the primary inspection booths. Port officials said that this port's design could not incorporate the installation of the portal monitors prior to entering the primary booth due to space constrictions.[56] Therefore, due to limited port expansion space, vehicles suspected of carrying

[56] Staff briefing at Otay Mesa Port-of-Entry, June 29, 2004.

radiological weapons cannot be detected and inspected until after they are already inside the port-of-entry. Once inside the port, the suspected presence of radiation is a safety issue and may also interfere with other commercial vehicles' ability to move through the port.

Another troubling example of inadequate infrastructure is at the Presidio port-of-entry. The Mexican government is constructing a new seaport in Topolobampo and building a new four-lane highway that stretches from this seaport to Presidio. Currently, the Presidio port-of-entry has 52 Customs and Border Protection officers who are responsible for inspecting an average of 2,000 cars, 20 commercial vehicles, and 70 pedestrians a day.[57] Once the Mexican highway is completed (summer of 2005), this route is anticipated to decrease shipping times from Pacific Rim countries to eastern U.S. destinations by four days; due in part to congestion at the Port of Los Angeles and in part to the relative proximity of Topolobampo to major highways leading to eastern U.S. destinations. It is further anticipated that as much as one-third of El Paso port-of-entry commercial traffic (220,000 vehicles annually or about 730 per day) will be diverted through Presidio.[58] The port director at the Presidio port said that they will only be able to efficiently process 150-200 commercial vehicles a day.[59] Therefore, there has been a failure to proactively construct new infrastructures or expand existing infrastructures, even in the face of publicized reports of the new Mexican highway.[60]

A single bridge in Presidio carries passenger and commercial traffic north and southbound. This infrastructure will not support the anticipated traffic.

One of the most glaring problems on the Southern Border is the current state of the "southbound" infrastructure. It is woefully inadequate in almost every port visited.

The number of southbound lanes is significantly lower than the numbers of lanes coming into the United States. For example, at San Ysidro there are 24 lanes into the United

[57] *Op. cit.,* US-Mexico Border Crossing Data.
[58] Staff briefing from U.S. Border Patrol Chief Patrol Agent Simon Garza, Jr., Marfa Sector, (Presidio, TX: April 1, 2004).
[59] Staff briefing from Presidio Port Director, (Presidio, TX: April 1, 2004).
[60] John MacCormack, "Praise, Anger Collide on a New Highway," *San Antonio Express-News*, June 10, 2001; and Dan Keane, "Officials Travel Mexican Leg of La Entrada," *The Big Bend Sentinel*, April 12, 2001.

States, and eight lanes into Mexico. This 3-to-1 ratio of northern/inbound versus southern/outbound lanes is consistent with staff observations across the Southern Border. Staffing levels at outbound lanes are also lower than inbound lanes. Many ports lack the staff to monitor outbound lanes on a regular basis. Those ports that can staff outbound regularly, do so for limited periods of time due to staffing shortages. For example, the DeConcini port in Nogales staffs its outbound lanes eight hours a day with 12 inspectors. During the hours that there are no inspectors assigned to outbound lanes, people and vehicles are free to cross into Mexico without a U.S. inspection.

Southbound lanes in Laredo without any booths or other inspection infrastructure.

There are simply not enough southbound lanes to conduct any dedicated enforcement operations such as the critically important "outbound currency" investigations meant to stop the millions of dollars of bulk currency being smuggled out of the United States every year. Current outbound enforcement operations are aimed at finding bulk currency – usually the proceeds from smuggling operations – and are generally limited to random two hour "blitzes." The blitzes are generally coordinated with Immigrations and Customs Enforcement agents and may only occur a few times a year at each port. According to figures obtained from ICE, from July 2003 to August 2004, about $95 million in bulk currency was seized from outbound lanes at Northern and Southern Border ports-of-entry.[61] Based on the current limited infrastructures dedicated for outbound lanes, when blitzes occur, lines of vehicles extend into the United States for miles from the border. As the San Diego Chamber of Commerce reported, when outbound blitzes take place at San Ysidro, it takes about three hours to cross the border.

[61] Data received August 19, 2004 from the Immigration and Customs Service. Although an exact figure was not available, it was stated that the vast majority of the $95 million was seized from Southern Border ports-of-entry.

The lack of outbound infrastructure also presents a particularly acute challenge for construction of the "exit" portion of the US-VISIT program. The program is charged with tracking when foreign visitors enter and leave the United States. The lack of virtually any exit infrastructure at U.S. ports-of-entry means that implementing US-VISIT is likely to be an extraordinarily expensive initiative. (See, Finding 6 regarding US-VISIT for a further discussion of this issue.) The "exit" portion of US-VISIT cannot be implemented until this problem is addressed.[62]

Rail infrastructure on the Southern Border also cannot meet the demands of heightened security and trade. For example, in fiscal year 2003, 74% of all commercial rail shipments (about 200,000 containers) coming into the United States from Mexico went through the rail facility in Laredo.[63] There is a single railroad track that runs across the border between Laredo and Nuevo Laredo. This single track was built in 1907, and is owned by the Tex-Mex Railway. This track is open to carry rail cargo shipments 24 hours a day, seven days a week. For 12 hours a day rail cars carrying commercial goods travel north into the United States, and for 12 hours they travel back south. This single railroad track is essential to the economy of the Laredo region and beyond. A terrorist act destroying this one bridge would result in the rerouting of nearly 200,000 containers to ports-of-entry unprepared to deal with increased rail volume.

Laredo rail crossing built circa 1902.

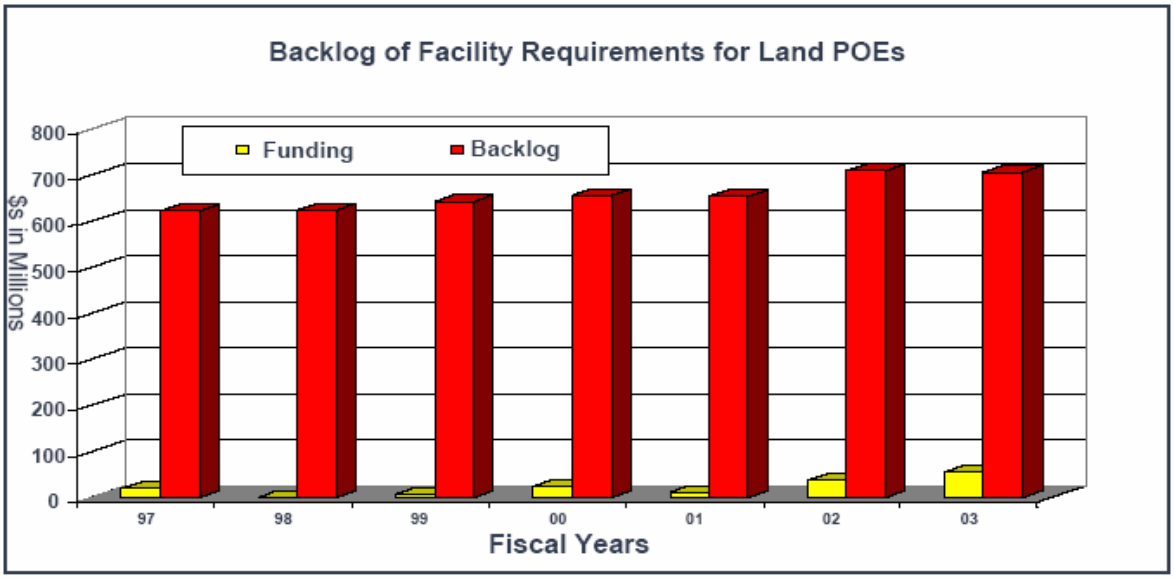
[62] Staff interviews with border community officials and CBP port management officials.
[63] *Op. cit.,* US-Mexico Border Crossing Data, Table 5.

Only Limited Infrastructure Modernization Investments for Southern Border Ports-of-Entry Have Been Made

According to the GAO, between 1988 and 2000, about $341 million in federal funds were spent to build or improve Southern Border ports-of-entry.[64] About $157 million were used to construct new ports-of-entry and the remaining $184 million was spent to improve existing ports.[65] The improvements made covered lane and station expansions, safety enhancements, adding administrative office space and replacing buildings.[66] In addition, $240 million was invested in Northern and Southern ports-of-entry from 2001 through 2004.[67]

Therefore, the total amount spent on building new and improving old port-of-entry infrastructures on the Southern Border in the last 16 years is less than $581 million, an average of only $36.3 million per year.

To put this $36.3 million a year into perspective, the planned expansion of the San Ysidro port-of-entry alone will take seven years to complete at an estimated cost of $233 million.[68] According to the DMIA Task Force, from 1997 through 2003, there has consistently been a gap between the facility capacity requirements actually funded at port-of-entry versus the capacity that would be required to be funded for ports to have adequate space.[69] As the below graph illustrates, in each of these years, a gap exists of approximately $600-$700 million per year.



Source: DMIA Task Force, Second Report to Congress

[64] *Op. cit.,* GAO/NSIAD-00-25, p. 29.
[65] *Ibid*., p. 44. The investments in new ports-of-entry included $55 million for Calexico East, $27 million for Otay Mesa, $13 million for Tecate, $19 million for Los Tomates, $15 million for Los Indios, $18 million for Pharr, and $10 million for Santa Teresa.
[66] *Ibid*.
[67] CBP briefing to the House Select Committee on Homeland Security, June 2, 2004.
[68] Committee Trip to San Ysidro Port-of-Entry, June 29, 2004.
[69] *Op. cit.,* DMIA Task Force Second Report, p. 33.

Likewise, inadequate funding has been provided for some of the improvements in land port infrastructures that could greatly enhance security and increase commerce. In particular, pre-screening programs, such as Secure Electronic Network for Travelers Rapid Inspection (SENTRI) and Free and Secure Trade (FAST) appear to be very successful but have not been adequately funded.[70] These programs (SENTRI for passenger vehicles and FAST for commercial vehicles) rely upon pre-screening of participants and utilize special lanes to speed entry into the country. They mitigate the risk of terrorism by subjecting the vehicles' occupants to a rigorous background check as well as lessening the time primary inspectors have to spend on them, thereby allowing the inspectors to devote more of their limited time on other, unknown travelers crossing the border. The efficient flow of traffic through ports-of-entry is essential to striking a balance between national security and business interests.

A pre-cleared FAST driver's information is displayed on a computer screen.

Despite the benefit of these lanes, however, only six ports-of-entry on the Southern Border are equipped with SENTRI lanes.[71] Seven additional Southern Border ports are scheduled to include SENTRI lanes in fiscal year 2005.[72]

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[70] Under the FAST program, importers, commercial carriers, and truck drivers qualify for expedited clearance at the border after passing an intensive background check. In addition, the truck driver must be driving for a company enrolled in the Customs-Trade Partnership Against Terrorism (C-TPAT). SENTRI is a pre-clearance program that subjects enrollees to intensive background checks which, if successful, allow them to cross the border through dedicated lanes and receive an expedited inspection. Enrollment in SENTRI is limited to drivers and passengers of non-commercial vehicles.

[71] U.S. Customs and Border Protection briefing to staff, (Washington, D.C., June 2, 2004).

[72] *Ibid.* It was unclear from the briefing whether the seven additional SENTRI lanes would be newly constructed lanes or existing vehicle lanes that would be converted to SENTRI. If these lanes are being

Converting regular vehicle lanes to SENTRI lanes costs about $420,000 per lane.[73] In addition, yearly average maintenance costs per lane are $130,000. Other costs include the construction and maintenance of an enrollment center, costing about $1.3 million.[74]

Despite the costs associated with converting SENTRI lanes, it appears that the lanes are able to pay for themselves through the collection of fees.[75] In order to enroll in SENTRI, travelers must pay $129 in fees annually, $80 of which is classified as a "System Cost Fee." As of March 2004, the SENTRI lanes in El Paso had 18,301 enrollees, bringing in system cost fees of over $1.4 million.[76] As of June 2004, the SENTRI lanes in San Ysidro and Otay Mesa had about 64,000 enrollees, bringing in system cost fees of over $5.1 million.[77]

Currently, seven ports-of-entry on the Southern Border have FAST lanes.[78] In fiscal year 2005, CBP has plans to create FAST lanes at an additional 11 Southern ports.[79] Nevertheless, even if the fiscal year 2005 FAST infrastructures are completed, there will still be eight Southern ports without FAST lanes.

In addition to the lack of sufficient pre-clearance lanes, the SENTRI and FAST programs are not as effective as they could be because pre-cleared passengers are often unable to get to the dedicated inspection lanes due to traffic backups. Improvements, such as building unimpeded access lanes for pre-cleared travelers and equipping additional inspection lanes with pre-clearance technology, are necessary to realize the full value of these programs.[80]

Pre-cleared trucks are slowed down due to traffic backups limiting access to the dedicated FAST lanes.

converted from existing lanes, there is a concern that non-SENTRI traffic will experience longer wait times than are currently experienced.

[73] *Ibid.*
[74] *Ibid.*
[75] *Op. cit*., CRS Report RL 32339, p.41.
[76] Number of enrollees obtained during staff trip to El Paso, March 30, 2004.
[77] Number of enrollees obtained during staff trip to San Diego, June 29, 2004.
[78] U.S. Customs and Border Protection briefing to staff, June 2, 2004.
[79] *Ibid*.
[80] *Op. cit*., DMIA Task Force Second Report, p. 112.

Any investment in infrastructure enhances the ability to effectively screen for terrorists and criminals and furthers the ability to move goods, services, and people across the border. For decades, there has been inadequate infrastructure at Southern Border ports-of-entry. Poor infrastructure has repeatedly forced frontline CBP officials at the ports-of-entry to almost make daily choices between favoring either national security or the U.S. economy. There is no need for this dilemma if proper funding is made available to truly modernize our ports-of-entry's infrastructures.

The Administration and Congress must recognize the importance of modern land ports-of-entry to national security and to the U.S. economy, and should therefore develop an aggressive strategy to expand and improve their infrastructure. Specifically, we recommend:

1. The Administration should conduct a thorough infrastructure assessment that looks at both the security vulnerabilities and the economic demands on the land borders. The Administration should conduct a national land border security vulnerability assessment as soon as practicable and advise Congress on the costs required to build a truly modern and secure land border system. In doing so, existing ports-of-entry should be studied to determine how improvements can be made to facilitate a more orderly flow of traffic.

2. The Department of Homeland Security must work and coordinate with state's Departments of Transportation to ensure adequate road infrastructure around ports-of-entry as well as from ports to major highways.

3. In the interim, while this study is being conducted, a $1 billion dollar Border Infrastructure Improvement Fund should be established and funded to start the border modernization effort. This is a down-payment toward resolving long-standing border problems and enhanced security concerns and should be immediately spent on eliminating the backlog of long-standing problems previously identified and in expanding ports-of-entry. These expenditures must be coordinated with state and local communities in order to ensure their effectiveness.

4. The Administration should expand pre-clearance programs, including SENTRI and FAST to all major southern ports-of-entry. Access lanes should be expanded to facilitate the free flow of traffic and rapid inspection of those who have been pre-cleared. The Administration should ensure that sufficient funds are dedicated for regular upgrade and maintenance of SENTRI and FAST systems.